

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

Court Minutes and Order

DATE: December 19, 2019
JUDGE: Pamela Pepper
CASE NO: 2019-cv-484
CASE NAME: Andrew Colborn v. Netflix, *et al.*
NATURE OF HEARING: Motion hearing
APPEARANCES: April Barker – Attorney for the plaintiff
George Burnett – Attorney for the plaintiff
Michael Griesbach – Attorney for the plaintiff
James Friedman – Attorney for the defendants
Matthew Kelley – Attorney for the defendants
Lee Levine – Attorney for the defendants
Leita Walker – Attorney for the defendants
COURTROOM DEPUTY: Kristine Wrobel
TIME: 9:35 a.m. – 10:32 a.m.

AUDIO OF THIS HEARING AT DKT. NO. 102

The court had scheduled this hearing to address the following motions:

Netflix, Inc.'s motion to dismiss, Dkt. No. 30;
The motion to dismiss filed by Chrome Media LLC, Laura Riciardi and
Maira Demos, Dkt. No. 34;
Plaintiff's motion for extension of time to serve summons and complaint,
Dkt. No. 51;
Plaintiff's motion for leave to file second amended complaint, Dkt No. 84;
Plaintiff's Rule 7(h) expedited non-dispositive motion to file sur-reply
brief in response to reply brief filed by the defendants. Dkt. No. 90;
and
Plaintiff's Rule 7(h) expedited non-dispositive motion to file supplemental
sur-reply brief and supplemental declaration of Debra L. Bursik.
Dkt. No. 92.

The court ruled on some of the motions, but expressed concern about the differing versions of the facts surrounding service in relation to the motion to dismiss filed by Chrome Media and the individual defendants and the plaintiff's request for an extension of time to serve. The court opined that it needed an evidentiary hearing to resolve those disputes and to rule on the motion. Counsel for the plaintiff suggested that if the court reviewed some of the cases the plaintiff had cited, it might conclude that no evidentiary hearing was necessary. The court agreed to review the cases, and indicated that it would let the parties know once it had decided if an evidentiary hearing was necessary.

The court **DENIES** Netflix Inc.'s motion to dismiss. Dkt. No. 30.

The court **GRANTS** the plaintiff's motion for leave to file second amended complaint. Dkt. No. 84.

The court **DEFERS** ruling on Chrome Media, Ricciardi and Demos's motion to dismiss pending its determination on whether an evidentiary hearing is necessary. Dkt. No. 34.

The court **DEFERS** ruling on the plaintiff's motion for extension of time to serve summons and complaint. Dkt. No. 51.

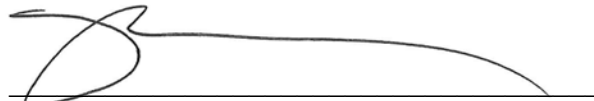
The court **DENIES** the plaintiff's Rule 7(h) expedited non-dispositive motion to file sur-reply brief in response to reply brief filed by defendants Laura Ricciardi, Moira Demos and Chrome Media. Dkt. No. 90.

The court **GRANTS** the plaintiff's expedited motion to file supplemental declaration of Debra Bursik and supplemental sur-reply brief. Dkt. No. 92.

The court will review the cases referenced by the parties relating to the service issue. If the court continues to believe that an evidentiary hearing is necessary, its staff will contact the parties to schedule an evidentiary hearing on Chrome Media, Ricciardi, and Demos's motion to dismiss.

Dated in Milwaukee, Wisconsin this 3rd day of January, 2020.

BY THE COURT:

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
Chief United States District Judge